

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TORAN V. PETERSON #318935,

Plaintiff,

Case No. 1:10-CV-133

v.

HON. ROBERT HOLMES BELL

UNKNOWN JONES,

Defendant.

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**ORDER DENYING MOTION TO PROCEED *IN FORMA PAUPERIS***  
**AND FOR PAYMENT OF FILING FEE ON APPEAL**

On January 21, 2015, the United States Court of Appeals for the Sixth Circuit remanded the case to this Court for the purpose of ruling on Plaintiff's motion to proceed *in forma pauperis* (IFP) on appeal (ECF No. 159) and motion for transcripts under 28 U.S.C. § 753(f) (ECF No. 158).

In his motion to reconsider the decision to deny IFP status, Plaintiff states that he does not know what issues he intends to raise on appeal, and he has identified twelve potential issues he may raise on appeal. He requests a copy of transcripts so that he may identify issues. (ECF No. 161.)

According to 28 U.S.C. § 1915(a)(3), an appeal may not be taken *in forma pauperis* if the district court certifies in writing that it is not taken in good faith. For the reasons stated in its numerous pre-trial orders (ECF Nos. 15, 30, 83, 92, 98, 121, 135, 136) and oral rulings, this Court finds that the twelve identified issues are frivolous and do not present substantial

questions in this case. Thus, the Court certifies, pursuant to § 1915(a)(3), that an appeal would be frivolous and not taken in good faith. For the same reasons, the Court denies Plaintiff's motion for transcripts.

The certification under § 1915(a)(3) does not affect Plaintiff's responsibility to pay the entire appellate filing fee pursuant to § 1915(b)(1) of the Prison Litigation Reform Act of 1995. *McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). Normally, a plaintiff must pay a portion of the appellate filing fee as an initial partial filing fee. *McGore*, 114 F.3d at 611. The initial partial filing fee is 20 percent of the greater of (a) the average monthly deposits to the prisoner's account; or (b) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the notice of appeal. 28 U.S.C. § 1915(b)(1).

According to the certified copy of Plaintiff's prison trust account statement, Plaintiff had an average monthly balance of \$16.07 in his account as of November 2013. Thus, the initial partial filing fee is 20 percent of \$16.07, or \$3.21. Plaintiff must pay the remaining portion of the \$455.00 filing fee, effective in 2013 at the time of his appeal, through monthly payments of 20 percent of the preceding month's income credited to Plaintiff's prison trust fund account. 28 U.S.C. § 1915(b)(2); *McGore*, 114 F.3d at 606. These payments will be forwarded by the agency having custody of the prisoner to the Clerk of this Court each time the amount in Plaintiff's trust account exceeds \$10.00, until the filing fee of \$455.00 is paid in full. 28 U.S.C. § 1915(b)(2). The check or money order shall be payable to "Clerk, U.S.

District Court” and must indicate the case number in which the payment is made. If the amount in Plaintiff’s account is \$10.00 or less, no payment is required for that month. *Id.*; *Hampton v. Hobbs*, 106 F.3d 1281, 1284-85 (6th Cir. 1997).

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff’s motion for leave to appeal in forma pauperis (ECF No. 159) is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff’s motion for transcripts (ECF No. 158) is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff’s motion for reconsideration (ECF No. 161) is **DENIED**.

**IT IS FURTHER ORDERED** that the agency having custody of Plaintiff shall collect **\$3.21** as payment of an initial partial filing fee from Plaintiff’s trust account.

**IT IS FURTHER ORDERED** that each time the amount in Plaintiff’s trust account exceeds \$10.00, the agency having custody of Plaintiff shall collect 20 percent of the preceding month’s income and remit that amount to the Clerk of this Court. The agency shall continue to collect monthly payments from Plaintiff’s prisoner account until the entire appellate filing fee of \$455.00 is paid.

Dated: March 10, 2015

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE

**SEND REMITTANCES TO THE FOLLOWING ADDRESS:**

Clerk, U.S. District Court  
399 Ford Federal Building  
110 Michigan Street, NW  
Grand Rapids, MI 49503

**All checks or other forms of payment shall be payable to “Clerk, U.S. District Court.”**